

Request for Fee Waiver

This request meets the case-by-case requirements for a fee waiver under EPA regulations found at 40 C.F.R. § 2.107. Each of the six factors which must be met to satisfy an EPA fee waiver request are discussed as follows:

Factor 1. The subject of the request: *Whether the subject of the requested records concerns "the operations or activities of the government." The subject of the requested records must concern identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote.*

This request seeks nominations for EPA's Clean Air Science Advisory Committee and Science Advisory Board. The documents sought are clearly identifiable records that, according to EPA instructions, should have been submitted to two identifiable EPA employees.

Factor 2. The informative value of the information to be disclosed: *Whether the disclosure is "likely to contribute" to an understanding of government operations or activities. The disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be "likely to contribute" to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be as likely to contribute to such understanding when nothing new would be added to the public's understanding.*

The principal purpose of this request is to evaluate the pool of nominations for EPA's Clean Air Science Advisory Committee and Science Advisory Board. The public has a strong interest in the integrity of the scientific decision-making process within EPA. Understanding the range of options available to EPA will directly assist the public in its evaluation of EPA's decision about which nominations to accept. Specifically, the public has an interest in confirming that the EPA made reasonable selections for the CASAC and SBA positions, meaning, among other things, CASAC nominees that have "expertise in the health effects of air pollution;" SAB nominees that have "[b]ackground and experiences that would help members contribute to the diversity of perspectives on the committee," "[a]bsence of financial conflicts of interest," and "absence of an appearance of a loss of impartiality;" and for the SAB as a whole, a "balance of scientific perspectives." EPA, Request for Nominations of Candidates to the EPA's Clean Air Scientific Advisory Committee (CASAC) and the EPA Science Advisory Board (SAB), 82 Fed. Reg. 29,077 (June 27, 2017). This information is not already in the public domain.

Factor 3. The contribution to an understanding of the subject by the public is likely to result from disclosure: *Whether disclosure of the requested information will contribute to "public understanding." The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public will be considered. It will be presumed that a representative of the news media will satisfy this consideration.*

As stated above, the public has a strong interest in the integrity of the scientific decision-making process within EPA, and that extends to the bodies within EPA that make science-based decisions, including the Clean Air Science Advisory Committee and Science Advisory Board. The Environmental Integrity Project (EIP) regularly reviews and evaluates public records in order to convey dense and/or voluminous information to the public through EIP's website and through outreach to the news media. EIP intends to do the same thing here, by reviewing the nominations in order to convey to the public the number, range of experience, and characteristics of nominees.

Factor 4. The significance of the contribution to public understanding: *Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities. The public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced significantly by the disclosure. The FOI Office will not make value judgments about whether information that would contribute significantly to public understanding of the operations or activities of the government is "important" enough to be made public.*

EIP intends to analyze the information sought, synthesize what would otherwise be a large volume of material, and provide that synthesis in a transparent manner to the public. As far as we are aware, there is no online database of nominations and no transparent, accessible survey of the nomination; thus, this information is not readily available to the public. The requestors will organize and analyze this information and disseminate in a way that will significantly increase the public's understanding of how EPA chose to fill the CASAC and SAB positions.

Factor 5. The existence and magnitude of a commercial interest: *Whether the requester has a commercial interest that would be furthered by the requested disclosure. The FOI Office will consider any commercial interest of the requester or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters will be given an opportunity in the administrative process to provide explanatory information regarding this consideration.*

The information delivered in response to this request will not be used for any commercial purpose, business, trade, or profit. The requestor is a public interest organization and has no commercial interest in this material.

Factor 6. The primary interest in disclosure: *Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure that disclosure is "primarily in the commercial interest of the requester." A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. FOI Offices ordinarily will presume that when a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.*

This factor is satisfied because none of the requestors have any commercial interest in disclosing the records sought.

For the above reasons, this request satisfies the fee waiver standards set forth in 40 C.F.R. § 2.107. However, in the event that EPA does not grant the requested waiver, please provide information concerning the specific basis for such a decision as required by EPA regulations as well as an estimate of the cost of the agency's response. In accordance with the FOIA Improvement Act of 2016, please provide responsive documents in an electronic format.

Thank you for your prompt attention to this matter. Should you need further information concerning this request, please do not hesitate to call Abel Russ at (802) 482-5379 or email him at aruss@environmentalintegrity.org.